

the South Atlantic to the harvest of brown, pink, and white shrimp, the Assistant Administrator may concurrently close the South Atlantic EEZ adjacent to the closed state waters by filing a notification of closure with the Office of the Federal Register. Closure of the adjacent EEZ will be effective until the ending date of the closure in state waters, but may be ended earlier based on the state's request. In the latter case, the Assistant Administrator will terminate a closure of the EEZ by filing a notification to that effect with the Office of the Federal Register.

(2) During a closure, as specified in paragraph (a)(1) of this section—

(i) No person may trawl for brown shrimp, pink shrimp, or white shrimp in the closed portion of the EEZ (closed area); and no person may possess on board a fishing vessel brown shrimp, pink shrimp, or white shrimp in or from a closed area, except as authorized in paragraph (a)(2)(iii) of this section.

(ii) No person aboard a vessel trawling in that part of a closed area that is within 25 nm of the baseline from which the territorial sea is measured may use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

(iii) Brown shrimp, pink shrimp, or white shrimp may be possessed on board a fishing vessel in a closed area, provided the vessel is in transit and all trawl nets with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck while transiting the closed area. For the purpose of this paragraph, a vessel is in transit when it is on a direct and continuous course through a closed area.

(b) [Reserved]

§ 622.207 Bycatch Reduction Device (BRD) requirements.

(a) *BRD requirement for South Atlantic shrimp.* On a shrimp trawler in the South Atlantic EEZ, each net that is rigged for fishing must have a BRD installed that is listed in paragraph (a)(3) of this section and is certified or provisionally certified for the area in which the shrimp trawler is located, unless

exempted as specified in paragraphs (a)(1)(i) through (iii) of this section. A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(1) *Exemptions from BRD requirement—*

(i) *Try net exemption.* A shrimp trawler is exempt from the requirement to have a certified or provisionally certified BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either placed immediately in front of another net or is not connected to another net.

(ii) *Roller trawl exemption.* A shrimp trawler is exempt from the requirement to have a certified or provisionally certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(iii) *BRD certification testing exemption.* A shrimp trawler that is authorized by the RA to participate in the pre-certification testing phase or to test a BRD in the EEZ for possible certification, has such written authorization on board, and is conducting such test in accordance with the “Bycatch Reduction Device Testing Manual” is granted a limited exemption from the BRD requirement specified in this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified or provisionally certified BRDs.

(2) *Procedures for certification and decertification of BRDs.* The process for the certification of BRDs consists of two phases—an optional pre-certification phase and a required certification phase. The RA may also provisionally certify a BRD.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigorous testing requirements specified for certification testing in the “Bycatch Reduction Device Testing Manual.”

(A) A person who wants to conduct pre-certification phase testing must submit an application to the RA, as specified in the “Bycatch Reduction Device Testing Manual.” The “Bycatch Reduction Device Testing Manual”, which is available from the RA, upon request, contains the application forms.

(B) After reviewing the application, the RA will determine whether to issue a letter of authorization (LOA) to conduct pre-certification trials upon the vessel specified in the application. If the RA authorizes pre-certification, the RA’s LOA must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the South Atlantic EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the “Bycatch Reduction Device Testing Manual.” The RA will issue a LOA to conduct certification trials upon the vessel specified in the application if the RA finds that: The operation plan submitted with the application meets the requirements of the “Bycatch Reduction Device Testing Manual”; the observer identified in the application is qualified; and the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. To be certified for use in the fishery, the BRD candidate must successfully demonstrate a 30-percent reduction in total weight of finfish bycatch. In addition, the BRD candidate must satisfy the following conditions: There is at least a 50-percent probability the true reduction rate of the

BRD candidate meets the bycatch reduction criterion and there is no more than a 10-percent probability the true reduction rate of the BRD candidate is more than 5 percentage points less than the bycatch reduction criterion. If a BRD meets both conditions, consistent with the “Bycatch Reduction Device Testing Manual”, NMFS, through appropriate rulemaking procedures, will add the BRD to the list of certified BRDs in paragraph (a)(3) of this section; and provide the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) *Provisional certification.* Based on data provided consistent with the “Bycatch Reduction Device Testing Manual”, the RA may provisionally certify a BRD if there is at least a 50-percent probability the true reduction rate of the BRD is no more than 5 percentage points less than the bycatch reduction criterion, *i.e.* 25 percent reduction in total weight of finfish bycatch. Through appropriate rulemaking procedures, NMFS will add the BRD to the list of provisionally certified BRDs in paragraph (a)(3) of this section; and provide the specifications for the BRD, including any special conditions deemed appropriate based on the certification testing results. A provisional certification is effective for 2 years from the date of publication of the notification in the FEDERAL REGISTER announcing the provisional certification.

(iv) *Decertification.* The RA will decertify a BRD if NMFS determines the BRD does not meet the requirements for certification or provisional certification. Before determining whether to decertify a BRD, the RA will notify the South Atlantic Fishery Management Council in writing, and the public will be provided an opportunity to comment on the advisability of any proposed decertification. The RA will consider any comments from the Council and public, and if the RA elects to decertify the BRD, the RA will proceed with decertification via appropriate rulemaking.

(3) *Certified and provisionally certified BRDs—*(i) *Certified BRDs.* The following BRDs are certified for use in the South Atlantic EEZ. Specifications of these

§ 622.208

certified BRDs are contained in Appendix D to this part.

(A) Fisheye—see Appendix D to part 622 for separate specifications in the Gulf and South Atlantic EEZ.

(B) Gulf fisheye.

(C) Jones-Davis.

(D) Modified Jones-Davis.

(E) Expanded mesh.

(F) Extended funnel.

(G) Cone Fish Deflector Composite Panel.

(H) Square Mesh Panel (SMP) Composite Panel.

(ii) [Reserved]

(b) [Reserved]

§ 622.208 Minimum mesh size applicable to rock shrimp off Georgia and Florida.

(a) The minimum mesh size for the cod end of a rock shrimp trawl net in the South Atlantic EEZ off Georgia and Florida is 1½ inches (4.8 cm), stretched mesh. This minimum mesh size is required in at least the last 40 meshes forward of the cod end drawstring (tie-off rings), and smaller-mesh bag liners are not allowed. A vessel that has a trawl net on board that does not meet these requirements may not possess a rock shrimp in or from the South Atlantic EEZ off Georgia and Florida.

(b) [Reserved]

§ 622.209 Restrictions on sale/purchase.

(a) *South Atlantic rock shrimp.* (1) Rock shrimp harvested in the South Atlantic EEZ on board a vessel that does not have a valid commercial permit for rock shrimp, as required under § 622.200(a)(2), may not be transferred, received, sold, or purchased.

(2) Rock shrimp harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic rock shrimp may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1).

(3) Rock shrimp harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1), only from a vessel

50 CFR Ch. VI (10–1–14 Edition)

that has a valid commercial vessel permit for rock shrimp.

(b) [Reserved]

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§ 622.210 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Shrimp Fishery of the South Atlantic Region, the RA may establish or modify the items specified in paragraph (a) of this section for South Atlantic shrimp.

(a) Biomass levels, age-structured analyses, BRD certification criteria, BRD specifications, BRD testing protocol, certified BRDs, nets required to use BRDs, times and locations when the use of BRDs is required, definitions of essential fish habitat, and essential fish habitat HAPCs or Coral HAPCs.

(b) [Reserved]

Subpart K—Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region

§ 622.220 Permits.

See § 622.4 for information regarding general permit procedures including, but not limited to fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

(a) *Required permits*—(1) *Allowable chemical.* For an individual to take or possess fish or other marine organisms with an allowable chemical in a coral area, other than fish or other marine organisms that are landed in Florida, a Federal allowable chemical permit must have been issued to the individual. Such permit must be available when the permitted activity is being conducted and when such fish or other marine organisms are possessed, through landing ashore.

(2) *Allowable octocoral.* For an individual to take or possess allowable octocoral in the South Atlantic EEZ, other than allowable octocoral that is landed in Florida, a Federal allowable octocoral permit must have been issued to the individual. Such permit must be available for inspection when the permitted activity is being conducted and